



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,452	07/29/2003	Hiroki Kishi	00862.023158	4848

5514 7590 10/22/2007
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

CHEVALIER, ROBERT

ART UNIT	PAPER NUMBER
----------	--------------

2621

MAIL DATE	DELIVERY MODE
-----------	---------------

10/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/628,452	KISHI ET AL.	
	Examiner	Art Unit	
	Bob Chevalier	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 is/are allowed.
- 6) ☒ Claim(s) 8-15 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 16-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/13/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 8-9, are 21-22, are rejected under 35 U.S.C. 101 because the claim is directed to a recording medium storing nonfunctional descriptive material.

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are neither physical "things" nor statutory processes. See, e.g. Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory) and merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make it statutory. See MPEP 2106.IV.B.1.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10-15, 20-22, are rejected under 35 U.S.C. 102(b) as being anticipated by Lane et al (P.N. ,377,051).

Lane et al discloses a video recording/reproducing apparatus that shows all the limitations recited in claims 10, 20-22, including the feature of playing back and

Art Unit: 2621

decoding compression encoded image data (See Lane et al's Figure 11, components 410), the feature of switching between a normal playback mode and slow playback mode (See Lane et al's Figure 11, component 426), the feature of playing back in a normal mode to read out data within a first range, decoding the readout data, and playing back the decoded frames (See Lane et al's Figure 11, components 426, 420, 410, and 412), and the feature of playing back in slow playback mode to read out data within a second range, decoding the readout data, and playing back the decoded frames as specified in the present claims 10, and 20-22. (See Lane et al's Figure 13(b), and Figure 11, components 426, 422, 410, and 412).

With regard to claim 11, the feature of the data stream including both high-definition frame group, and low-definition frame group, and the second playback being applied to the high-definition frame group as specified thereof is present in Lane et al. (See Low and the High priorities data shown in Lane et al's column 27, lines 48-64, and column 31, lines 51-64).

With regard to claims 12-13, the feature of the high-definition data being played back at the second playback means as specified thereof is present in Lane et al. (See the normal play operation shown in Lane et al's Figure 11, components 426, 420, 410, and 412).

With regard to claims 14-15, the feature of the moving image data being encoded by Motion/JPEG encoding recited thereof would be present in Lane et al's apparatus. (See Lane et al's Figures 5, and 7).

5. Claims 1-7 contain allowable subject matter over the prior art of record.

6. Claims 16-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

The claimed invention is directed to an image processing apparatus for, when a frame, which can assure high image quality of a moving image, is expressed by N frames/sec, playing back moving image data, which has a frame rate of M ($M > N$) frames/sec higher than frame rate. The independent claims identify the features of "first playback means for, when said switching means selects the normal playback mode, reading out frames from the image data at a first frame interval, decoding the readout frames by said decoding means, and playing back the decoded frames at substantially N frames/sec; and second playback means for, when said switching means selects the slow playback mode, reading out frames from the image data at a second frame interval narrower than the first frame interval, decoding the readout frames by said decoding means, and playing back the decoded frames at least at substantially N frames/sec". The closest prior art, Lane et al discloses a conventional video recording/reproducing apparatus, either singularly or in combination fails to anticipate or render the above underlined limitations obvious.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bob Chevalier whose telephone number is 571-272-7374. The examiner can normally be reached on MM-F (9:00-6:30), second Monday off.

Art Unit: 2621

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

B. Chevalier
October 10, 2007.


ROBERT CHEVALIER
PRIMARY EXAMINER